National Labor Relations Board



Weekly Summary of NLRB Cases

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<u>CASES SUMMARIZED</u> VISIT WWW.NLRB.GOV FULL TEXT

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Ironwood Plastics, Inc. (30-CA-16852-1; 345 NLRB No. 105) Ironwood, MI Nov. 10, 2005. The administrative law judge found, with Board approval, that the Respondent did not violate Section 8(a)(3) and (1) of the Act by discharging Jodi Bennetts because she supported the Auto Workers and engaged in other protected concerted activities. In defense, the Respondent asserted that it discharged Bennetts for unacceptable behavior, including unprofessional treatment of other team members and disrupting other employees on the plant floor. [HTML] [PDF]

Assuming that the General Counsel met his initial burden to demonstrate that the Respondent's discharge of Bennetts was motivated by antiunion animus, Chairman Battista and Member Schaumber found that the Respondent met its burden of proving by a preponderance of the evidence that it would have discharged Bennetts even in the absence of her union activities. They also agreed with the judge that the General Counsel did not make an initial showing that the Respondent's denial of Bennetts' leave request was motivated by union animus.

In Member Liebman's view, the General Counsel clearly met its initial burden to show unlawful motivation for each act of alleged discrimination, but she found that the preponderance of the evidence showed that the Respondent would have denied Bennetts' leave request, disciplined her, and ultimately discharged her, even in the absence of her union activity.

There were no exceptions to the judge's findings that the Respondent violated Section 8(a)(1) by threatening employees with loss of their jobs and other unspecified reprisals for engaging in union or other protected concerted activities, restricting employees' exercise of their Section 7 rights, interrogating employees about their support for a union, and engaging in surveillance of the employees' union activities. Exceptions were also not filed to the judge's dismissal of complaint allegations that the Respondent violated Section 8(a)(1) by assisting an antiunion employee, and by soliciting grievances. The Board found that a broad order requiring the Respondent to cease and desist from violating the Act "in any other manner" is not warranted and substituted a narrow cease-and-desist order requiring the Respondent to cease and desist from violating the Act "in any like or related manner."

(Chairman Battista and Members Liebman and Schaumber participated.)

Charge filed by the Auto Workers; complaint alleged violation of Section 8(a)(1) and (3). Hearing at Ironwood, Feb. 16-17, 1005. Adm. Law Judge Michael A. Rosas issued his decision June 30, 2005.

Newcor Bay City Div. of Newcor, Inc. (7-CA-47590; 345 NLRB No. 104) Bay City, MI Nov. 8, 2005. The Board affirmed the administrative law judge's finding that the Respondent violated Section 8(a)(5) and (1) of the Act by failing to supply the requested census data (bargaining unit employees' names, seniority dates and dates of birth) to the Auto Workers and its Local 496 without unnecessary delay; and by unilaterally implementing the terms set forth in its final contract proposal effective June 11, 2004, without bargaining in good faith to a valid impasse. The Board modified the judge's remedy to include appropriate remedial provisions for any loss of wages or benefits suffered by employees. [HTML] [PDF]

In affirming the judge's finding that the Respondent unlawfully implemented its final contract proposal without bargaining in good faith to a valid impasse, Member Schaumber did not rely on the judge's alternative rationale that the parties were not at a valid impasse because the Respondent had failed to provide the Union with requested information.

(Chairman Battista and Members Liebman and Schaumber participated.)

Charge filed by the Auto Workers and its Local 496; complaint alleged violation of Section 8(a)(1) and (5). Hearing at Bay City, Jan. 11-12, 2005. Adm. Law Judge Paul Bogas issued his decision April 26, 2005.

LIST OF DECISIONS OF ADMINISTRATIVE LAW JUDGES

Newspaper and Mail Deliverers' Union of New York and Vicinity (NY Holdings, Inc.) Bronx, NY Nov. 9, 2005. 2-CB-20110; JD(NY)-49-05, Judge Steven Davis.

Cleveland Cinemas Management, et al. (Stage Employees Local 160) Cleveland, OH Nov. 10, 2005. 8-CA-34971-1, 35072-1; JD-81-05, Judge Martin J. Linsky.

Scripps Health d/b/a Scripps Memorial Hospital Encinitas (California Nurses Association) Encinitas, CA Nov. 10, 2005. 21-CA-36585, et al.; JD(SF)-77-05, Judge Lana H. Parke.

NO ANSWER TO COMPLAINT

(In the following case, the Board granted the General Counsel's motion for summary judgment based on the Respondent's failure to file an answer to the complaint.)

Fulton Bellows & Components, Inc. (Machinists and Steelworkers District 9) (10-CA-34295, 34301; 345 NLRB No. 103) Knoxville, TN November 8, 2005. [HTML] [PDF]

LIST OF UNPUBLISHED BOARD DECISIONS AND ORDERS IN REPRESENTATION CASES

(In the following cases, the Board considered exceptions to and adopted Reports of Regional Directors or Hearing Officers)

DECISION AND ORDER [overruling Employer's Objection 4]

J.C. Penney Corp., Inc., Elmhurst, NY, 29-RC-11193, Nov. 10, 2005 (Chairman Battista and Members Liebman and Schaumber)

(In the following cases, the Board adopted Reports of Regional Directors or Hearing Officers in the absence of exceptions)

DECISION AND CERTIFICATION OF REPRESENTATIVE

H&D Inc., *A Division of Rieth-Riley Construction Co.*, *Inc.*, Levering and Hudson, MI, 7-RC-22875, Nov. 7, 2005 (Chairman Battista and Members Liebman and Schaumber)

DECISION AND CERTIFICATION OF RESULTS OF ELECTION

National Building Maintenance Corp., Ponce, PR, 24-RC-8485, Nov. 10, 2005 (Chairman Battista and Members Liebman and Schaumber) Time Warner Entertainment Co., LP, d/b/a Time Warner Cable, Erie and Corry, PA, 6-RC-12469, Nov. 9, 2005 (Chairman Battista and Members Liebman and Schaumber)

DECISION AND DIRECTION OF SECOND ELECTION

Holiday Inn Select, Bloomington, MN, 18-RC-17363, Nov. 10, 2005 (Chairman Battista and Members Liebman and Schaumber)

(In the following cases, the Board granted requests for review of Decisions and Directions of Elections (D&DE) and Decisions and Orders (D&O) of Regional Directors)

Mallinckrodt, Inc., Hobart, NY, 3-RC-11640, 11641, Nov. 10, 2005 (Chairman Battista and Member Schaumber; Member Liebman dissenting)

(In the following cases, the Board denied requests for review of Decisions and Directions of Elections (D&DE) and Decisions and Orders (D&O) of Regional Directors)

CUNA Mutual Insurance Group, Madison, WI, 30-RD-1420, Nov. 10, 2005 (Chairman Battista and Members Liebman and Schaumber)

Miscellaneous Board Orders

ORDER [granting request for special permission to appeal Regional Director's Order Denying Employees' Motion to Intervene and denying appeal on its merits]

Thomas Built Buses, a subsidiary of Freightliner, LLC, High Point, NC, Nov. 10, 2005 (Chairman Battista and Member Schaumber; Member Liebman concurring)
